

104TH CONGRESS
1ST SESSION

H. R. 2081

To recognize the validity of rights-of-way granted under section 2477 of the Revised Statutes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 1995

Mr. HANSEN (for himself, Mr. DOOLITTLE, and Mr. SHADEGG) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To recognize the validity of rights-of-way granted under section 2477 of the Revised Statutes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Revised Statutes 2477
5 Rights-of-Way Settlement Act”.

1 **SEC. 2. NOTICE OF RIGHTS-OF-WAY ACROSS PUBLIC LANDS**
2 **GRANTED UNDER REVISED STATUTES SEC-**
3 **TION 2477.**

4 (a) NOTICE OF RS 2477 RIGHT-OF-WAY.—Any
5 State, political subdivision thereof, or other holder of a
6 right-of-way across public lands which was granted under
7 section 2477 of the Revised Statutes before the enactment
8 of the Federal Land Policy and Management Act of 1976,
9 or any person who uses or could use the right-of-way for
10 passage across such lands to access property in which such
11 person has an interest, may file with the appropriate Sec-
12 retary of the Department concerned (hereafter in this Act
13 referred to as the “Secretary”) a notice of the right-of-
14 way. The notice shall be filed within 10 years after the
15 date of the enactment of this Act, shall identify the State
16 or political subdivision thereof through which the right-
17 of-way passes, and shall contain a map and a general de-
18 scription of the route, termini, and scope of the right-of-
19 way.

20 (b) RECOGNITION OF OR OBJECTION TO RIGHT-OF-
21 WAY BY THE SECRETARY.—

22 (1) IN GENERAL.—Not later than two years
23 after the date on which notice is filed with the Sec-
24 retary under subsection (a), the Secretary shall no-
25 tify the holder, or other party giving notice, of the
26 recognition or objections of the Secretary of the

1 right-of-way or any portion thereof. In considering
2 any right-of-way notice filed under subsection (a),
3 the Secretary shall recognize any right-of-way which
4 was accepted or established in accordance with the
5 laws of the State where the right-of-way is located
6 or by an affirmative act of a State or political sub-
7 division thereof indicating acceptance of the grant.

8 (2) RECOGNITION.—To the extent the Sec-
9 retary accepts the right-of-way, the provisions of sec-
10 tion 4 shall apply.

11 (3) OBJECTIONS.—If the Secretary objects to
12 the right-of-way as presented under subsection (a),
13 the Secretary shall specifically state the Secretary's
14 objections to the existence, identity of the holder,
15 route, or scope of the right-of-way, or portion there-
16 of, and shall provide the factual and legal basis for
17 each objection.

18 (4) EFFECT OF FAILURE TO OBJECT.—If the
19 Secretary does not object within the two-year period
20 required by this subsection, the right-of-way shall be
21 deemed to be valid as it was presented to the Sec-
22 retary under subsection (a).

23 **SEC. 3. JUDICIAL REVIEW.**

24 (a) QUIET TITLE ACTION RELATING TO OBJEC-
25 TIONS.—Not later than two years after the date on which

1 the Secretary notifies a holder under section 2(b) of objec-
2 tions to a right-of-way, or portion thereof, the Secretary
3 may bring an action based on those objections in a United
4 States district court in which the right-of-way or a portion
5 thereof is located to challenge the validity of the right-
6 of-way or portion thereof.

7 (b) BURDEN OF PROOF.—In any action brought pur-
8 suant to subsection (a), the United States shall bear the
9 burden of proof on all issues, including (but not limited
10 to) proving that—

11 (1) the right-of-way was not a public right-of-
12 way;

13 (2) the right-of-way was not accepted or estab-
14 lished in accordance with the laws of the State
15 where the right-of-way is located or by an affirma-
16 tive act of a State or political subdivision thereof in-
17 dicating acceptance of the grant;

18 (3) the land on which the right-of-way is lo-
19 cated was reserved for public use at the time of ac-
20 ceptance of the right-of-way; and

21 (4) the scope of the right-of-way identified in
22 the notice of right-of-way exceeds that permitted
23 under State law.

24 (c) FAILURE TO BRING ACTION.—If the Secretary
25 does not bring such an action within the two-year period

1 required by this subsection, the right-of-way shall be
2 deemed to be valid in the form presented under section
3 2(a).

4 (d) **STANDING.**—Standing to challenge an action of
5 the Secretary under this Act relating to the existence, de-
6 scription, route, or scope of a right-of-way shall be limited
7 to a party with a claim of a property interest in or to
8 the right-of-way or in lands served thereby.

9 **SEC. 4. MANAGEMENT OF LANDS.**

10 A right-of-way accepted or deemed to be accepted
11 under this Act is valid. The Secretary shall record the
12 right-of-way in the land records and on maps of the Sec-
13 retary and shall manage the lands subject to the right-
14 of-way accordingly.

15 **SEC. 5. MISCELLANEOUS PROVISIONS.**

16 (a) **QUIET TITLE ACTION.**—Nothing in this Act shall
17 be construed to prevent the holder of a right-of-way de-
18 scribed in section 2 from bringing an action at any time
19 to quiet title with respect to such right-of-way under sec-
20 tion 2409a of title 28, United States Code, nor shall any
21 proceedings taken pursuant to this Act be deemed a pre-
22 requisite to filing any such action. Such action may be
23 brought within the later of—

24 (1) 12 years from the date of notice of objection
25 from the Secretary under section 2(b)(1); or

1 (2) the termination of the limitations period
2 under section 2409a of title 28, United States Code.

3 (b) RELINQUISHMENT NOT REQUIRED.—Nothing in
4 this Act shall be construed to require a relinquishment of
5 a right-of-way granted under section 2477 of the Revised
6 Statutes. A failure to file the notice provided for under
7 section 2(a) does not constitute a relinquishment of any
8 such right-of-way.

9 (c) APPLICATION OF STATE LAW.—Nothing in this
10 Act shall be construed to limit the application of State
11 law in determining the validity of rights-of-way granted
12 under section 2477 of the Revised Statutes. In every pro-
13 ceeding the law of the State where the right-of-way is lo-
14 cated shall determine the scope of the right-of-way. The
15 published regulations of the Department of the Interior
16 pertaining to section 2477 of the Revised Statutes which
17 were in effect until the date of enactment of the Federal
18 Land Policy and Management Act of 1976 shall be bind-
19 ing on the Secretary in all such proceedings.

20 (d) NEPA.—The National Environmental Policy Act
21 of 1969 shall not apply with respect to actions taken to
22 carry out this Act.

23 (e) ROAD CLOSURES.—The Secretary shall not close
24 any right-of-way granted under section 2477 of the Re-
25 vised Statutes which was in use prior to October 21, 1976,

1 until one year after providing notice to the State and any
2 political subdivision thereof with jurisdiction over high-
3 ways in that location which describes the right-of-way and
4 the purpose of the intended closure. In no event shall the
5 Secretary close any such right-of-way if closure would
6 leave any non-Federal lands adjoining the right-of-way
7 without an established public or private access.

